

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

GUN OWNERS OF AMERICA, Inc., <i>et al.</i> , Plaintiffs, v. MERRICK GARLAND, <i>et al.</i> , Defendants.	Case No. 1:18-cv-1429 HONORABLE PAUL L. MALONEY
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JOINT STATUS REPORT

Pursuant to this Court's Order dated March 15, 2022, ECF No. 81, the parties file this Joint Status Report.

1. Plaintiffs initiated this action and sought preliminary injunctive relief in December 2018 against a rule, promulgated by the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF), governing bump stock devices. *See* Compl., ECF No. 1; Mot. for Prelim. Inj., ECF No. 9. This Court denied the motion for preliminary injunction. March 21, 2019 Order & Op., ECF No. 48.

2. Plaintiffs appealed the denial of their motion for preliminary injunction to the Sixth Circuit. *See* Notice of Appeal, ECF No. 49.

3. This Court stayed further proceedings pending that appeal. *See* May 6, 2019 Order, ECF No. 55.

4. A panel of the Sixth Circuit ordered that the denial of the preliminary injunction be reversed and remanded. *See* ECF No. 62. The Sixth Circuit granted en banc review, *see* ECF No. 63 and then affirmed this Court's order denying the preliminary

injunction by an equally divided court, *see* ECF No. 68.

5. Plaintiffs sought a writ of certiorari from the Supreme Court. *See* ECF No. 72. This Court stayed proceedings pending action on the petition by the Supreme Court and ordered the parties to submit a further status report no later than two weeks after the denial of Plaintiffs' petition. *See* March 15, 2022 Order, ECF No. 73.

6. On October 3, 2022, the Supreme Court denied Plaintiffs' petition for certiorari. *See* ECF No. 74. The parties subsequently requested that the Court temporarily lift the stay to allow Defendants to file the administrative record in this matter; the Court granted this request and subsequently re-imposed the stay. *See* ECF No. 78.

7. The parties subsequently requested, and the Court granted, a continuation of the stay while they evaluated the impact of the Fifth Circuit's *en banc* decision in *Cargill v. Garland, et al.*, No. 20-51016 (5th Cir. Jan. 6, 2023), which created a split among the Courts of Appeals regarding the legality of ATF's bump stock rule. ECF No. 81. The United States has petitioned for a writ of certiorari in the *Cargill* matter. That petition, which directly raises the question whether bump stocks fall within the statutory definition of machineguns, is currently pending.

8. In the meantime, a panel of the Sixth Circuit issued a decision in *Hardin v. ATF, et al.*, No. 20-6380 (6th Cir. Apr. 25, 2023), joining the Fifth Circuit in finding the bump stock rule impermissible. The time for any further review of that decision has not yet expired, and the United States is still evaluating how to proceed in that case.

9. The United States believes that it would constitute an inefficient use of resources for the parties and the Court to proceed to summary judgment in this matter while the Supreme Court's review of *Cargill* is ongoing and the time for further review in *Hardin* has

not yet expired. Accordingly, the United States believes that the Court continue the stay until the Supreme Court issues a final decision in the *Cargill* matter.

10. Accordingly, the parties respectfully request that the Court continue the stay until July 14, 2023, and direct the parties to file a joint status report at that time.

Dated: May 15, 2023

Respectfully submitted,

PENTIUK, COUVREUR & KOBILJAK, P.C.

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CERTIFICATE OF SERVICE

Kerry L. Morgan, on May 15, 2023, e-filed and served the foregoing *Joint Status Report* using this Court's e-filing and e-service system.

/s/Kerry L. Morgan
Kerry L. Morgan